

DOWN TO EARTH SCHOOL,

Appellant

Representing the Appellant:

Bill Egge, Owner
Down to Earth School
716 Market Street
Silver City, New Mexico 88061

Representing the Government:

Patricia Leigh Disert, Esquire
Office of the General Counsel
U. S. Department of Agriculture
P. O. Box 586
Albuquerque, New Mexico 87103-0586

AGBCA No. 2006-132-1

ORDER OF THE BOARD OF CONTRACT APPEALS

May 4, 2006

Opinion for the Board by Administrative Judge POLLACK.

This is a timely appeal arising out of an Emergency Equipment Rental Agreement, EERA #56-8399-5-0029, between Down to Earth School of Silver City, New Mexico, and the U. S. Department of Agriculture, Forest Service (FS), Gila National Forest, also of Silver City, New Mexico. The agreement involved the hiring by FEMA/Forest Service of Appellant to provide camp crew and bus in support of FEMA relief effort in San Antonio, Texas, arising out of Hurricane Katrina. The matter in dispute was the propriety of the deduction of \$17,202.11 from Appellant's invoices by the FS for meals and lodging. By letter of February 1, 2006, Down to Earth School, through its attorney, filed a timely appeal.

The Board has jurisdiction over this timely-filed appeal pursuant to the Contract Disputes Act of 1978 (CDA), 41 U.S.C. §§ 601-613.

By fax transmitted April 24, 2006, from Appellant, the Board was provided a letter from the FS to Appellant, dated March 6, 2006. That letter also included a separate addition by the contractor

dealing with release of its claim. The release portion was signed by the owner of Down to Earth, Bill Egge, and dated March 10, 2006. The FS portion of the letter was from Douglas Hyde-Sato (the Contracting Officer). The FS segment reflected that the FS was offering a payment of \$17,202.11 to Down to Earth School, in full, for the deductions. In the portion signed by Appellant, the Appellant agreed to release the Government from any and all claims arising under the agreement (EERA) in consideration for the payment.

The Appellant's appeal was initially filed by counsel for Appellant, however, correspondence as to the release came directly from Appellant. Given that, the Board made a telephone call to Appellant so as to clarify the status of counsel. The Board was told that Appellant had consulted with its counsel, but now considered the matter settled and closed and wished to no longer pursue the appeal. The Appellant then provided the Board with a letter restating its agreement to settlement.

DECISION

The appeal having been settled, the Board dismisses the appeal with prejudice.

HOWARD A. POLLACK
Administrative Judge

Issued at Washington, D.C.
May 4, 2006